

United States
Circuit Court of Appeals
For the Ninth Circuit.

HENRY EARL DUNLAP,

Appellant,

vs.

E. B. SWOPE,

Warden of United States Penitentiary
McNeil Island, Washington,

Appellee.

Transcript of Record

Upon Appeal from the District Court of the United
of the United States for the Western District
Southern Division.

FILED

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in *italic*; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in *italic* the two words between which the omission seems to occur.]

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COUNSEL OF RECORD.

For Petitioner and Appellant:

MAURICE KADISH,
720 Joseph Vance Building,
Seattle, Washington.

For Respondent and Appellee:

J. CHARLES DENNIS,
U. S. Attorney,
Seattle, Washington.

OLIVER MALM,
Assistant U. S. Attorney,
Tacoma, Washington.

In the United States District Court for the Western
District of Washington, Southern Division,
Tacoma, Washington.

No. 8536.

HENRY EARL DUNLAP,

Petitioner,

vs.

E. B. SWOPE,
Warden of United States Penitentiary,
McNeil Island, Washington,

Respondent.

PETITION FOR WRIT OF HABEAS CORPUS.

To the Honorable Judge of the United States District Court for the Western District of Washington, Southern Division, at Tacoma, Washington.

Comes now petitioner Henry Earl Dunlap, plaintiff in the above entitled action, respectfully avers and alleges that he is being illegally restrained of his liberty by E. B. Swope, Warden of the United States Penitentiary at McNeil Island, Washington, and/or his Deputies, and/or his agents, all of whom are within the jurisdiction of this Honorable Court, and that the said illegal restraint is also within the jurisdiction of this Honorable Court.

I.

That Petitioner avers that the sole color of authority by which he is restrained by the said Warden Swope is a Judgment of the District Court of the United States of America within and for the Central Division of the Southern District of California. That petitioner attaches hereto, and by this reference makes a part hereof, the aforesaid judgment and labels same Exhibit A. The said judgment was found after a plea of guilty to three counts of an indictment found against petitioner in the aforesaid court.

II.

That Petitioner further avers that the said judgment, sentencing him to the United States Penitentiary is in excess of jurisdiction in part, and that he has hereunto served the term which was within the jurisdiction of the court, and is therefore now being held in such excessive part contrary to the Constitution of the United States of America and statutes so provided. [1*]

*Page numbering appearing at the foot of page of original certified Transcript of Record.

III.

That Petitioner alleges that the charges of the indictment in all five counts were based on the single intent of manufacturing counterfeit money. That Petitioner further states that on motion of the United States Attorney at Los Angeles, Counts one and two of the aforesaid indictment, a copy of which is attached hereto and by this reference made a part hereof, labelled Exhibit "B", were dropped from the indictment, for lack of other evidence or other cause. That Petitioner further alleges that he did plead guilty to Count Three charging him with the unlawful possession of counterfeit money, (Title 18, Section 277, U. S. Code,) that he did plead guilty to Count Five, charging him with unlawful possession of molds for the manufacture of counterfeit money (Title 18, Section 283, U. S. Code.)

IV.

That Petitioner was thereupon on the aforesaid plea of guilty sentenced to serve two years on Counts Three and Four, and Six years on Count Five, the said counts to run consecutively and not concurrently. Petitioner alleges that the Court was in excess of jurisdiction in giving three separate sentences to run consecutively as only one crime, with one criminal intent, was committed and therefore only one sentence was legal.

V.

That Petitioner maintains that he commenced the service of the term on Count Three, namely two

years, on the 7th day of October, 1935. By reason of his good behavior he alleges that he has been allowed the statutory good time on this sentence of two years, as provided by statute, and by reason of this good time should have been discharged from service of the said sentence on May 15, 1937. That Petitioner further avers that he is now being illegally held in restraint to answer to the judgments in Counts Four and Five of the aforesaid indictment and judgment, both of which counts are in excess of jurisdiction and therefore void and illegal and invalid, and Petitioner is therefore entitled to his discharge and so prays to be ordered discharged in the premises. [2]

Wherefore, your Petitioner prays that a writ of Habeas Corpus be issued, directed to E. B. Swope, Warden of said United States Penitentiary, and to have said E. B. Swope produce the body of your Petitioner before this Honorable Court at a time and date certain to be set and designated by this Honorable Court and to then and there show cause why our Petitioner should not be released from custody and restraint forthwith.

And your Petitioner prays for such other and further relief at law or equity as the Court may deem just and equitable.

MAURICE KADISH,
DAVID BAILEY SMITH,
Attorneys for Petitioner.

United States of America,
State of Washington,
County of Pierce.—ss.

Whereas, Henry Earl Dunlap, being first duly sworn, deposes and says that he is the Petitioner named herein, and that he has carefully read and noted the allegations, averments and the statements contained herein, and that of his own knowledge and belief, all the facts stated therein are the truth except those which are stated on knowledge and belief, and those are true to his best knowledge.

H. EARL DUNLAP,
Petitioner.

Subscribed and sworn to before me this 17th day
of June, 1937.

[Notary Seal] ALAN P. COX,
Notary Public in and for the County
of Pierce, State of Washington,
residing at Tacoma. [3]

EXHIBIT "A".

At a stated term, to wit: The September Term, A.D. 1935, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles, California, on Monday, the 7th day of October, in the year of our Lord one thousand nine hundred and thirty-five.

Present:

The Honorable Leon R. Yankwich, District Judge.

No. 12552-Y-Crim.

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HENRY EARL DUNLAP,

Defendant.

This case coming on for the arraignment and plea of defendant Henry Earl Dunlap; Charles H. Carr, Assistant U. S. Attorney, appearing for the Government, and the defendant being present in court without counsel, waives an attorney; after which, the said defendant is informed of the substance of the indictment by the Clerk of the Court, states his true name to be as given therein, and upon being required to plead, enters his plea of not guilty to the first and second counts, and guilty as to the third, fourth, and fifth counts; thereafter, Charles H. Carr, Esq., makes a statement from the report.

The Court now pronounces sentence upon defendant Henry Earl Dunlap for the crime of which he stands convicted, to-wit: Sections 277, 278, and 283, Title 18, U. S. Code; and, it is the judgment of the Court that the said defendant on each of the third and fourth counts be imprisoned in a Federal Penitentiary to be hereafter designated by the United States Attorney General or such representative as he may choose to act for him, for the term and period of two years on each count, and as to the fifth

count to be imprisoned in said penitentiary for the term and period of six years, said terms of imprisonment to run consecutively. Counts Nos. 1 and 2 are ordered dismissed. [4]

EXHIBIT "B".

No. 12552-Y

Filed.....

Viol: Sections 277, 278, and 283, Title 18, United States Code.

In the District Court of the United States in and for the Southern District of California, Central Division.

At a stated term of said court, begun and holden at the City of Los Angeles, County of Los Angeles, within and for the Central Division of the Southern District of California on the second Monday of September in the year of our Lord one thousand nine hundred thirty-five:

The grand jurors for the United States of America, impaneled and sworn in the Central Division of the Southern District of California and inquiring for the Southern District of California upon their oath present:

That

Henry Earl Dunlap, alias Earl Evans, hereinafter called the defendant, whose full and true name, other than as herein stated, is to the grand jurors unknown, late of the Central Division of the Southern District of California, heretofore, to-wit:

On or about the 12th day of September, 1935, at Los Angeles, County of Los Angeles, State, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, feloniously and fraudulently, and with the intent then and there to defraud, pass, utter, publish and sell, and attempt to pass, utter, publish and sell, certain false and counterfeit coins in resemblance and similitude of silver coins which had been coined and stamped at the mints and assay offices of the United States, that is to say, one hundred (100) false and counterfeit coins in resemblance and similitude of the ten cent coins of the United States, and the said false and counterfeit coins, at the time the said defendant so passed, uttered, published and sold the same, were in the resemblance and similitude of the ten cent coins current in the United States and in actual use and circulation as money within the United States, the said defendant then and there well knowing the said coins to be false, forged and counterfeited;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. [5]

Second Count.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That Henry Earl Dunlap, alias Earl Evans, hereinafter called the defendant, whose full and true name, other than as herein stated, is to the grand jurors unknown, late of the Central Division of the

Southern District of California, heretofore, to-wit: On or about the 12th day of September, A.D. 1935, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, feloniously and fraudulently, and with the intent then and there to defraud, pass, utter, publish and sell certain falsely made, forged and counterfeited coins, to-wit: In resemblance and similitude of the five cent minor coins of the United States, the said defendant then and there well knowing the said coins to be falsely made, forged and counterfeited;

Contrary to the form of the Statute in such case made and provided and against the peace and dignity of the United States of America.

Third Count.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That Henry Earl Dunlap, alias Earl Evans, hereinafter called the defendant, whose full and true name, other than as herein stated, is to the grand jurors unknown, late of the Central Division of the Southern District of California, heretofore, to-wit: On or about the 12th day of September, A.D. 1935, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, feloniously and fraudulently have in his possession certain false and counterfeit coins, to-wit: Sixty-six (66) false, forged and counterfeit coins in resem-

blance and similitude of silver coins of the United States, and forty-five (45) coins in the resemblance and similitude of the ten cent silver coins of the United States and twenty-one [6] (21) coins in the resemblance and similitude of the twenty-five cent silver coins of the United States, the said defendant then and there well knowing the said coins to be false, forged and counterfeit, and the said defendant having the said false, forged and counterfeit, coins in his possession with the intent to defraud divers persons whose names are to the Grand Jurors unknown;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

Fourth Count.

And the grand jurors aforesaid, upon their oaths aforesaid, do further present:

That Henry Earl Dunlap, alias Earl Evans, hereinafter called the defendant, whose full and true name, other than as herein stated, is to the grand jurors unknown, late of the Central Division of the Southern District of California, heretofore, to-wit: On or about the 12th day of September, A.D. 1935, at Los Angeles, Los Angeles County, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, feloniously and fraudulently have in his possession certain falsely made, forged and counterfeited coins, to-wit: Fifty (50) falsely made, forged and counterfeited coins

in resemblance and similitude of minor coins which had been coined at the mint of the United States, to-wit: In resemblance and similitude of the five cent minor coins of the United States, the said defendant then and there well knowing the said coins to be falsely made, forged and counterfeited, and the said defendant having the said falsely made, forged and counterfeited coins in his possession with the intent to defraud divers persons, whose names are to the Grand Jurors unknown;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

Fifth Count.

And the grand jurors aforesaid, upon their oath aforesaid, do further present: [7]

That Henry Earl Dunlap, hereinafter called the defendant, whose full and true name is, other than as herein stated, to the grand jurors unknown, late of the Central Division of the Southern District of California, heretofore, to-wit: On or about the 12th day of September, 1935, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully and feloniously, and without lawful authority have in his possession certain plaster of Paris molds in likeness and similitude as to the design and inscriptions thereon of molds designated for the coining and making of genuine silver coins of the United States that have been or may here-

after be coined at the mints of the United States to-wit: Two sets of plaster of Paris molds for the making and counterfeiting of Ten Cent (10¢) coins, and three sets of plaster of Paris molds for the making and counterfeiting of Twenty-five cent (25¢) coins;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America.

PIERSON M. HALL,
United States Attorney.
WM. FLEET PALMER,
Assistant United States
Attorney.

[Endorsed]: A true bill, Jno. O. Knight, foreman. Filed Oct. 2, 1935, R. S. Zimmerman, Clerk, by Murray E. Wire, Deputy Clerk.

Received a copy of the within this 23 day of June, 1937. Oliver Malm.

[Endorsed]: Filed June 22, 1937. [8]

[Title of Court and Cause.]

ORDER.

Good cause appearing, it is ordered:

Let the Writ issued, returnable before the Honorable E. E. Cushman, Judge of the United States District Court for the Western District of Wash-

ington, Southern Division, on Saturday, the 26th day of June, 1937, at the hour of ten (10) A. M.

EDWARD E. CUSHMAN,
Judge U. S. District Court.

Presented by:

MAURICE KADISH,
Attorney for Petitioner.

[Endorsed]: Filed Jun. 23, 1937. [9]

[Title of Court and Cause.]

WRIT OF HABEAS CORPUS.

To the United States of America, E. B. Swope,
Warden of Penitentiary, at McNeil Island,
Washington, and United States Marshal, Greet-
ing:

We command you, that you have the body of Henry Earl Dunlap, by you imprisoned and detained, as it is said, together with the time warrant and cause of such imprisonment and detention, by whatsoever name, said Henry Earl Dunlap shall be named or charged, before Honorable E. E. Cushman, Judge of United States District Court for the Western District of Washington, Southern Division, Tacoma, Washington, at the court room of said Court in the County of Pierce, on the 26th day of June, 1937, at 10:00 o'clock A. M., of that day, to do and receive what shall then and there

be considered concerning the said Henry Earl Dunlap.

And have you then and there this writ.

Honorable EDWARD E. CUSHMAN.

a Judge of the United States District
Court for the Western District of
Washington,

This 23rd day of June, A. D. 1937.

Attest my hand and seal of said United States
District Court for the Western District of Wash-
ington, Southern Division, the day and year last
above written.

[Court Seal]

EDGAR M. LAKIN,

Clerk,

By E. W. PETTIT,

Deputy. [10]

RETURN ON SERVICE OF WRIT.

United States of America,
Western District of Washington.—ss.

I hereby certify and return that I served the annexed Writ of Habeas Corpus on the therein-named E. B. Swope, Warden United States Penitentiary, McNeil Island, Washington, by calling him on the telephone and notifying him of the contents of the writ, he accepting the service over the telephone, and by mailing him a true and correct copy of the

writ in said District on the 25th day of June, A.D. 1937.

A. J. CHITTY,

U. S. Marshal.

By H. C. DeLINE,

Deputy.

Marshal's fee \$2.

[Endorsed]: Filed Jun. 25, 1937 [10-a]

[Title of Court and Cause.]

DEMURRER.

Comes now Oliver Malm, Assistant United States Attorney for the Western District of Washington, on behalf of E. B. Swope, Warden of the United States Penitentiary on McNeils Island, and respondent herein, and demurs to the petition herein filed upon the following reasons and grounds:

I.

That the petition heretofore filed herein does not state facts sufficient to constitute a basis for the issuance of a writ of habeas corpus.

II.

That the said petition does not state facts sufficient to entitle the petitioner to discharge from his present confinement.

III.

That the said petition does not set forth sufficient or any facts to show that said petitioner has been, or is being illegally restrained by the respondent

herein, or by an other agent or officer of the United States of America.

J. CHARLES DENNIS,
United States Attorney.

OLIVER MALM,
Assistant United States Attorney.

Copy of foregoing Demurrer received June 26, 1937.

MAURICE KADISH,
DAVID BAILEY SMITH,
of Counsel Atty. for Petitioner.

[Endorsed]: June 26, 1937. [11]

United States District Court, Western District of
Washington, Southern Division.

No. 8536.

HENRY EARL DUNLAP,
Petitioner,

vs.

E. B. SWOPE, Warden of the United States Peni-
tentiary on McNeil Island,
Respondent.

ORDER SUSTAINING DEMURRER.

This matter coming on regularly for hearing on the petition of petitioner herein, Petitioner being represented by Maurice Kadish, and David B. Smith, attorneys, Respondent being represented by

Oliver Malm, Asst. United States Attorney for this district, and petitioner having testified on his own behalf, and argument having been heard by the Court, it is now

Ordered that the Demurrer of Respondent be, and the same is hereby sustained; the Petition for Writ of Habeas Corpus is denied, the rule of the Warden vacated and the petitioner remanded to the warden's custody to resume the service of his sentence.

Done in open court this 26th day of June, A.D. 1937.

EDWARD E. CUSHMAN,
United States Judge.

To all of which Petitioner makes an Exception and the exception is allowed.

EDWARD E. CUSHMAN,
United States Judge.

Approved as to form.

MAURICE KADISH,
Attorney for Petitioner.

[Endorsed]: Jun. 26, 1937. [12]

[Title of Court and Cause.]

PETITION FOR APPEAL.

To the Honorable Edward E. Cushman, Judge of the above-entitled Court:

The above-named petitioner, Henry Earl Dunlap, feeling himself aggrieved by the judgment and order denying the release of the above-named peti-

tioner, entered in this cause on the 26th day of June, 1937, does hereby appeal from said judgment and order, and from the whole thereof, to the United States Circuit Court of Appeals for the Ninth Circuit, for the reasons specified in the assignment of errors, which is filed herewith, and he prays that his appeal be allowed and that a citation issue as provided by law, and that a transcript of the record, proceedings and papers upon which such judgment and order denying the release of the above-named petitioner, was based, duly authenticated, will be sent to the United States Circuit Court of Appeals for the Ninth Circuit sitting at San Francisco in the State of California.

Dated at Tacoma, Washington, this 29th day of June, A.D. 1937.

MAURICE KADISH,

Attorney for Petitioner.

Received a copy of the within Pet. for appeal this 29 day of June, 1937.

OLIVER MALM,

Asst. U. S. Atty.

[Endorsed]: Filed Jun. 29, 1937 [13]

[Title of Court and Cause.]

ORDER ALLOWING APPEAL.

Petition for appeal from the judgment and order of this Court denying the release of the petitioner herein having been filed, as appears from the files of this Court, and the Court having considered the

same and being of the opinion the appeal should be allowed, now therefore,

It is hereby ordered that the appeal of the petitioner, Henry Earl Dunlap, to the Circuit Court of Appeals for the Ninth Circuit of the United States, from the order and judgment of this Court made and entered herein on the 26th day of June, 1937, be and the same is hereby allowed.

Done at Tacoma, Washington, this 30th day of June, A.D. 1937.

EDWARD E. CUSHMAN,
District Judge.

Received a copy of the within Order this 30 day of June, 1937.

OLIVER MALM,
Asst. U. S. Atty.

[Endorsed]: Filed Jun. 30, 1937. [14]

[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Comes now the petitioner, Henry Earl Dunlap, through his attorney, Maurice Kadish, and says that the judgment and order entered herein on the 26th day of June, 1937, is erroneous and unjust for the following reasons:

I.

The Court erred in holding that the petitioner has no complaint and that it was not necessary for the Court to decide if the counts were one offense.

II.

The Court erred in holding that petitioner is being lawfully held and imprisoned and should not be discharged.

III.

The Court erred in denying the relief prayed for by the petitioner.

Dated at Tacoma, Washington, this 29th day of June, 1937.

MAURICE KADISH,
Attorney for Petitioner.

Received a copy of the within Assignment this 29 day of June, 1937.

OLIVER MALM,
Asst. U. S. Atty.

[Endorsed]: Filed Jun. 29, 1937. [15]

[Title of Court and Cause.]

PETITIONER'S EXCEPTIONS TO THE
ORDER AND JUDGMENT.

Comes now the petitioner, and in a conformity with the order of the Court entered herein on the 26th day of June, 1937, excepts to the order and judgment made by the Court herein, said exceptions being as follows:

I.

Petitioner excepts to that portion of said order and judgment finding that petitioner has no complaint and that it was not necessary for the Court to decide if the counts were one offense.

II.

Petitioner excepts to that portion of said order and judgment finding that petitioner is being lawfully held and should not be discharged.

Dated at Tacoma, Washington, this 29th day of June, 1937.

MAURICE KADISH,
Attorney for Petitioner.

The foregoing exceptions, I. and II. are allowed:
EDWARD E. CUSHMAN,
District Judge.

Received a copy of the within Petrs. Exceptions this 29 day of June, 1937.

OLIVER MALM,
Asst. U. S. Atty.

[Endorsed]: Filed Jun. 30, 1937. [16]

[Title of Court and Cause.]

ORDER.

Pursuant to the Motion herein, it is hereby Ordered, that the record herein may be filed on or before August 30, 1937.

Done at Tacoma, this 22 day of July, 1937.

EDWARD E. CUSHMAN,
United States District Judge.

Presented by:

MAURICE KADISH,
Attorney for Petitioner.

Approved:

OLIVER MALM,
Asst. U. S. Atty.

[Endorsed]: Filed Jul. 22, 1937. [17]

[Title of Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF RECORD.

To the Clerk of the Above entitled Court:

You will please prepare, and duly authenticate, the transcript and the following portions of the record in the above entitled case for appeal of the appellant herein to the United States Circuit Court of Appeals for the Ninth Circuit:

1. Petition for writ of Habeas Corpus;
2. Order;
3. Writ of Habeas Corpus;
4. Demurrer;
5. Order Sustaining Demurrer;
6. Petition for Appeal;
7. Order Allowing Appeal;
8. Assignment of Errors;
9. Petitioner's Exceptions to the Order and Judgment;
10. Citation on Appeal;
11. Praecipe.

MAURICE KADISH,

Attorney for Appellant.

Rec'd Copy: July 10, 1937.

J. CHARLES DENNIS,

United States Attorney.

[Endorsed]: Filed Jul. 12, 1937. [18]

[Title of Court and Cause.]

AMENDED PRAECIPE FOR TRANSCRIPT
OF RECORD.

To the Clerk of the above entitled Court:

You will please prepare, and duly authenticate, the transcript and the following portions of the record in the above entitled case for appeal of the appellant herein to the United States Circuit Court of Appeals for the Ninth Circuit:

12. Order.

13. Amended Praecipe.

MAURICE KADISH,

Attorney for Appellant.

Rec'd Copy: July 23, 1937.

J. CHARLES DENNIS,

United States Attorney.

[Endorsed]: Filed Jul. 24, 1937. [19]

[Title of Court and Cause.]

CLERK'S CERTIFICATE TO TRANSCRIPT
OF RECORD.

United States of America,
Western Dis. of Washington.—ss.

I, Edgar M. Lakin, Clerk of the United States District Court for the Western District of Washington, do hereby certify and return that the foregoing typewritten sheets numbered 1 to 19 both inclusive, are a full, true and correct copy of so much of the record, papers and proceedings in the case of Henry Earl Dunlap, Petitioner and Appel-

lant vs. E. B. Swope, Warden of United States Penitentiary, McNeil Island, Washington, Respondent and Appellee, cause No. 8536 in said Court, as required by praecipe of counsel filed and of record in my office in said District Court at Tacoma, and that the same constitutes the record on appeal from the judgment of said United States District Court for the Western District of Washington to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify, that attached to this transcript is the original citation in this cause.

I further certify that the following is a full, true and correct statement of all expenses, fees and charges incurred and on behalf of the appellant herein for making of the appeal record, certificate and return to the United States Circuit Court of Appeals for the Ninth Circuit, viz:

Appeal fee	\$5.00
Clerk's fees (63 folios at 5¢).....	3.15
Clerk's certificate to record50
	<hr/>
Total	\$8.65

I further certify that the costs and fees amounting to \$8.65, has been paid to me by the appellant.

In witness whereof, I have hereunto affixed the seal of said Court at Tacoma, Washington, this 27 day of August, 1937.

[Seal]

EDWARD M. LAKIN,
Clerk,

By E. W. PETTIT,
Deputy. [20]

[Title of Court and Cause.]

CITATION ON APPEAL.

The President of the United States of America,
To: The above-named respondent E. B. Swope and
to Oliver Malm, Assistant United States Attorney,
his attorney: Greetings:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit, at the City of San Francisco, State of California, within Thirty (30) days from and after the date of this citation, pursuant to appeal filed in the Clerk's office of the District Court of the United States, for the Western District of Washington, Southern Division, wherein Henry Earl Dunlap is petitioner and appellant, and E. B. Swope, Warden of the United States Penitentiary on McNeil Island, is respondent, to show cause, if any there be, why the order and judgment rendered against the said Henry Earl Dunlap, as in said appeal mentioned, should not be corrected, and why speedy justice should not be done to said party in that behalf.

Witness, The Honorable Edward E. Cushman,
District Judge of the United States at Tacoma,

Washington, within said District, this 30th day of June, A.D. 1937.

EDWARD E. CUSHMAN,
District Judge.

Received a copy of the within Citation this 30 day of June, 1937.

OLIVER MALM,
Asst. U. S. Atty.

[Endorsed]: Lodged Jun. 30, 1937. [21]

[Endorsed]: No. 8668. United States Circuit Court of Appeals for the Ninth Circuit. Henry Earl Dunlap, Appellant, vs. E. B. Swope, Warden of United States Penitentiary McNeil Island, Washington, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Western District of Washington, Southern Division.

· Filed Sept. 20, 1937.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court
of Appeals for the Ninth Circuit.